

WATER QUALITY PROGRAM FOR AGRICULTURE (WQPA)

Summary Outline of Procedures and Requirements

11/17/2010

The outline is provided to assist in the implementation of the Agricultural Water Quality Cost-Share Program for Idaho, IDAPA 60.05.03.

It is the policy and intent of the Idaho Soil and Water Conservation Commission (SWC) to work through soil conservation districts (SCD) in providing local WQPA program delivery.

Establishing a WQPA Priority Project

- The SWC will establish an agricultural project priority list of potentially fundable projects which will be reviewed periodically and modified as necessary, depending upon funding, to assure up-to-date status of all water quality plans and project plans of operation and compatibility with applicable state rules and requirements.
- Eligible Project Areas include 303(d) listed water bodies, ground water quality protection areas identified pursuant to I.C. § 39-102 et seq., water bodies identified in the Idaho Agricultural Pollution Abatement Plan, water bodies containing habitat for species listed as threatened or endangered under the Endangered Species Act, and water bodies of special concern.
- Applications will be evaluated by the SWC and other appropriate technical entities and interests on the basis of the following criteria:
 - a) 303(d) listing status; and
 - b) TMDL assessments; and
 - c) TMDL schedule; and
 - d) Beneficial uses affected; and
 - e) Eligible project area; and
 - f) Relative ability of proposed water quality plans and project plans of operations to protect and/or improve beneficial uses; and
 - g) Applicant's and watershed participants' readiness to implement plan; and
 - h) Availability of technical assistance; and
 - i) Availability of supplementary funding.
- Regional project priorities and applications will be reviewed by a regional technical team consisting of SWC field staff, with input and assistance from NRCS, and appropriate SCD division representation. Regional recommendations on project priorities will be submitted to the SWC.

The SWC will make all final decisions regarding project funding for priority areas.

Project Priority Areas

- The program is applicable to agricultural and grazing land in an approved project area.
- Lands eligible for cost-share assistance in a project area are those designated by the local soil conservation district, with concurrence of the SWC, as critical areas for Best Management Practices (BMPs).
- Critical areas or sources are designated based upon sound technical information indicating that the areas produce significant nonpoint source pollution impacts or areas deemed necessary for protection or improvement for the attainment or support of beneficial uses.
- Critical areas will be prioritized for BMP implementation based on a tiered approach to targeting treatment units as follows:

Tier 1 – Fields directly adjacent to either the tributary of concern or a drain to the tributary of concern, or fields having a direct and substantial influence on the tributary of concern

Tier 2 – Fields in the subwatershed with an indirect, yet substantial influence on the tributary of concern

Tier 3 – Fields upland in the subwatershed that indirectly influence the tributary of concern

- Critical areas will require site-specific evaluations to determine the nature of contribution to pollutant loading and priority of each tier and overall strategies for achieving water quality objectives.
- Lands owned by federal, state or local governments, and lands owned by public utilities, irrigation districts, and canal companies are eligible for cost-sharing under this program.

Project Sponsor

The Project sponsor must develop a project plan of operations for approval by the SWC.

- The project plan of operations will be submitted as part of the project agreement. The plan will contain at a minimum:
 - a) 303(d), ESA, or groundwater status of the subject waterbody
 - b) Critical acres to be treated
 - c) Estimated benefits of the proposed treatment
 - d) Total BMP costs
 - e) BMPs to be installed and their quantity
 - f) BMP cost-sharing
 - g) Matching funds
 - h) Other sources of funding
 - i) Cost list
 - j) Critical area description
 - k) Treatment area map

Project Participant

- The project participant must have a conservation plan which is signed by the participant and technical entity and approved by the local soil conservation district, unless otherwise authorized by the SWC.
- Cost-sharing payments will not be authorized for any measure initiated before the contract is approved by all parties.

BMPs

- BMP effectiveness reviews for selected participant contracts will be conducted by the SWC, with assistance from the participant, project sponsor, and appropriate technical entities.
- The results of BMP effectiveness reviews will be reported using reporting protocols developed by the SWC.
- Annual status reviews of participant water quality plans will be conducted using the SWC's protocol and reviewed with the project sponsor.
- Inclusion of additional BMPs in the approved project plan requires written SWC approval.
- In many instances, some of the BMPs set forth in a water quality contract are not eligible for cost share, (e.g., ongoing operation and maintenance requirements). Participant contracts must require and make clear that all funded and non-funded BMPs must be carried out over the term of the contract.
- Site-specific BMPs required to treat critical areas or sources of pollutants must be identified in the participant's water quality plan (Conservation Plan).

Project Operations, Documentation, and Reporting

- Sponsoring entities must complete financial reports for WQPA program activities including but not limited to any and all expenditures of State funds used for best management practices, technical assistance, or administration. Financial reports will be approved at the sponsoring entity's regularly scheduled meetings, regardless of the amount of project activity.
- At the beginning of each fiscal year, sponsoring entities must submit a progress report, a financial report, and a written projected fiscal expenditure payment schedule for the remaining life of the project to the SWC.
- Project sponsor may receive up to 10% of the total amount of the project grant for administrative costs over the life of the project.
- Administrative costs may be charged for actual time spent on contract administration and project activities.
- SWC must approve all lease agreements and purchase of equipment items greater than \$500.
- Per Diem and mileage rates must be consistent with those established by the Idaho State Board of Examiners.
- Cost-share funds cannot be provided for any BMP that has been installed or initiated before the participant(s) and the SWC or project sponsor signs the water quality contract.
- All project timelines will be based on the state fiscal year of July 1 through June 30. Project sponsors will assist the SWC, at a minimum, annually to develop an estimate of project expenses for that year and the remaining life of the project.
- BMP cost-share funds will be provided by the SWC to the sponsor as available, for disbursement following SWC receipt of BMP payment applications and invoices. Payment applications must be approved by the participant, technical entity (SCD, NRCS, SWC or other technical service provider) and the project sponsor prior to payment by SWC.

Overview of the WQPA Cost-Share Fund

- Annual fiscal year funding for the WQPA Cost-Share Program is subject to the appropriation of funds by the legislature to the SWC.
- To establish individual project budgets SCD project sponsors are to provide SWC with annual fiscal year funding projections, fiscal reports, and progress reports.
- Once WQPA funds are appropriated to the SWC, sponsoring entities are eligible to apply for those funds through the payment approval process.
- Applications for cost-share payments will be approved and made to sponsoring entities in the chronological order they are submitted to SWC for approval.
- SWC will notify all WQPA Priority Area sponsoring entities when previously obligated funds are not dispersed and are available for additional projects.

Project Costs

- All cost lists used to make cost-share payments will be updated annually by the project sponsor.
- Average costs must be developed for each practice or component of a practice identified in the work plan as eligible for financial assistance.
- Average costs are determined by the actual cost to land users for installing measures and practices.
- Actual cost includes labor, operating supplies and other direct costs required for physical installation of a measure or practice.
- The average cost list and BMP costs for the project must be approved by the SWC.
- Modifications to average costs must be approved by the SWC.
- Loss of income is not a basis for modification of average costs.

Project Cost Sharing

- Only BMP component practices included in the Idaho Agricultural Pollution Abatement Plan or those with accepted NRCS standards are eligible for cost-sharing. All cost-shared practices and rates must be approved by the SWC as part of the project plan of operations.
- Cost-sharing funds will not be dispersed for any actions initiated prior to contract approval by the participant, technical entity, sponsor, and SWC.
- Program cost-sharing, including funds from other state sources, must not exceed 90 percent of the actual BMP practice cost.
- Total program cost-share funds from all sources (private, state, and federal) must not exceed 100 percent of the actual project cost.
- Program cost-sharing is limited to a maximum of \$50,000 per participant contract, unless otherwise authorized by the SWC.
- The participant shall notify the project sponsor prior to initiating the installation of each practice to ensure that funds are available for cost-share payment
- Cost-sharing is not authorized for irrigation system installation or improvements on lands which are under Conservation Reserve Program (CRP) cover or those lands where the CRP cover has been removed within the first growing season following contract expiration or termination.
- Cost-sharing funds may be used to supplement and protect CRP where it has been determined that additional practices are necessary. Examples include water and sediment control basins to reduce gully erosion, trap sediment, and improve down stream water quality.

Matching Funds

- Matching funds must total at least twenty five percent of the total project costs listed in the project agreement.
- Matching funds include all project time and expenses not reimbursed by state funds. Examples include: non-state technical assistance time, vehicle use, land operator time, equipment use and material costs
- Documentation of project matching funds will be provided to the SWC by the project sponsor.
- For matching fund purposes, salaries of individuals may be used if known and appropriate.

Payment Approval Process

- SCD project sponsors, in cooperation with project participants, must submit payment approval forms to the SWC to determine availability of cost-share funds. Payment approval forms may be submitted electronically, by fax, or by mail containing the participant's signature and date of signature.
- Payment approval forms will be dated and reviewed for approval in the order received by the SWC.
- If funds are not available, the SWC will contact the appropriate SCD sponsors. When WQPA funds become available, payments will be made in the order in which the payment approval forms were approved.
- Cost-share payment requests will not be approved greater than 60 days prior to the beginning of practice installation. If approved by the SWC, cost-share funds specific to practices and contract item numbers will be reserved for a maximum of four months, including the 60 day advance notification. Requests for extensions of up to 60 days will be considered at the discretion of the SWC.
- Partial payments of contract item numbers may be authorized by the SWC with technical certification by NRCS, SWC, or other technical entity and approval of the participant and SCD.
- If the participant elects not to install the practice within the approved time period, the SCD will submit to the SWC written notification to this effect. Funds which have previously been reserved for that practice will then be allocated to the next priority. The participant may reapply for payment approval if the original approval had not been extended.
- Participant contract modifications must be sent to the SWC to provide the most current information on contract items and cost-share amounts. SWC concurrence will not be required for modifications which do not result in an increase of contract cost-share funds.

Contract Requirements

The water quality contract shall include, but not be limited to the following:

- Basic contract document;
- Special provisions as needed
- Water quality plan and
- Any other information deemed necessary by the SWC or project sponsor
- Contract period shall not be less than one and not more than 10 years
- Contract modifications must be approved by the project participant, technical entity, and project sponsor.
- Modifications resulting in a ten percent or more cost increase must receive prior approval of the SWC.
- Documentation of all modifications must be submitted to the SWC.

Non-Compliance

- A participant shall be in non-compliance of a water quality contract for causes including, but not limited to one or more of the following:
 - Knowingly or negligently destroys, abandons, or modifies a BMP implemented in accordance with the water quality plan, unless prior written approval is given by the sponsor and the SWC.
 - Files a request for cost-share payment for BMPs not installed or carried out, or for BMPs implemented in a manner that does not meet specifications.
- Project sponsor shall be informed of potential non-compliance by the technical entity.
- Information regarding potential non-compliance must be documented on the annual status review and field notes by project sponsor or technical entity.

Notice of Non-Compliance

- If the project sponsor or SWC determine that non-compliance has occurred which call for a forfeiture, refund, payment adjustment, or termination, written notice thereof shall be given to the participant(s).
- The written notice shall set forth the nature of the alleged non-compliance and shall inform the participant that an opportunity will be given to appear at a compliance review before the project sponsor or SWC. A written request shall be filed by the participant for such review no later than 30 days after the issuance of the notice of non-compliance.

Non-Compliance Review

- Upon a timely receipt of request for non-compliance review, the project sponsor or SWC shall notify the participant in writing of the time, date, and place for the review.
- If the participant does not file a timely written request for review, or fails to appear at the review so requested, the participant shall have no further right to a review before the project sponsor or SWC.
- The project sponsor or SWC shall notify the participant in writing of the determination
- A participant determined by the project sponsor or SWC to be in non-compliance of the water quality contract shall forfeit all rights to further cost-share payments under the contract
- A participant determined by the project sponsor or SWC to be in non-compliance of the contract shall make refunds of the cost-share payments received under the contract or accept payment adjustments in the contract

Appeal of Review Determination

- Appeal of the review determination may be made by any participant adversely affected by the determination in accordance with Title 67, Chapter 52, Idaho Code.
- A participant determined to be in non-compliance by a project sponsor may request, in writing, review by the SWC within 30 days of issuance of notification of non-compliance determination.
- Appeal of the review determination may be made by any participant adversely affected by the determination in accordance with Title 67, Chapter 52, Idaho Code.